

COMMITTEE REPORT

MADAM PRESIDENT:

The Senate Committee on Pensions and Labor, to which was referred Senate Bill No. 335, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

- 1 Replace the effective date in SECTION 5 with "[EFFECTIVE
- 2 OCTOBER 1, 2009]".
- 3 Replace the effective date in SECTION 8 with "[EFFECTIVE
- 4 OCTOBER 1, 2009]".
- 5 Page 2, line 32, delete "police".
- 6 Page 2, line 33, delete "employees" and insert "**law enforcement**
- 7 **officers**".
- 8 Page 2, line 36, delete "police employees" and insert "**law**
- 9 **enforcement officers**".
- 10 Page 2, line 38, delete "police employee" and insert "**law**
- 11 **enforcement officer**".
- 12 Page 2, line 41, delete "police employee's" and insert "**law**
- 13 **enforcement officer's**".
- 14 Page 3, delete lines 3 through 42.
- 15 Page 4, delete lines 1 through 18.
- 16 Page 4, line 23, after "1." insert "**(a) This chapter applies only to**
- 17 **an employee that an employer hires after September 30, 2009.**
- 18 **(b)**".
- 19 Page 4, line 23, after "to" insert "**the following:**

1 (1)".

2 Page 4, line 23, delete "a" and insert "A".

3 Page 4, between lines 25 and 26, begin a new line block indented

4 and insert:

5 **"(2) A hospital licensed under IC 16-21.**

6 **(3) A county hospital organized under IC 16-22.**

7 **(4) A municipal hospital organized under IC 16-23.**

8 **(5) A nonprofit corporation.**

9 **(6) A person who operates a business of transporting**
 10 **emergency patients by ambulance or using a nontransporting**
 11 **emergency medical services vehicle (as defined in**
 12 **IC 16-31-3-0.5))."**

13 Page 4, line 32, after "individual" insert **"who:**

14 **(1) works or is hired to work for at least one thousand five**
 15 **hundred (1,500) hours during a twelve (12) month period;**

16 **(2) performs employment services for an employer; and**

17 **(3) is an individual from whom the employer is required to**
 18 **withhold wages under IC 6-3-4-8 or is an employee described**
 19 **in IC 6-3-4-8(l))."**

20 Page 4, delete line 33.

21 Page 4, between lines 41 and 42, begin a new paragraph and insert:

22 **"Sec. 5. As used in this chapter, "knowingly" has the meaning**
 23 **set forth in IC 35-41-2-2."**

24 Page 4, line 42, delete "5." and insert **"6."**

25 Page 5, line 8, delete "6." and insert **"7."**

26 Page 5, line 11, delete "7." and insert **"8."**

27 Page 5, line 15, delete "8." and insert **"9."**

28 Page 5, line 17, delete "9. A person" and insert **"10. An employer"**.

29 Page 5, line 19, delete "10. (a) The" and insert **"11. (a) Subject to**
 30 **the availability of funds, the"**.

31 Page 5, line 19, delete "shall" and insert **"may"**.

32 Page 5, line 21, delete "9" and insert **"10"**.

33 Page 5, between lines 26 and 27, begin a new paragraph and insert:

34 **"(c) A complaint filed with the attorney general under**
 35 **subsection (a) must be:**

36 **(1) in writing; and**

37 **(2) signed by the individual filing the complaint."**

38 Page 5, line 27, delete "11." and insert **"12."**

- 1 Page 5, line 30, delete "12." and insert "13."
- 2 Page 5, line 38, delete "13. (a) If a prosecuting attorney receives
- 3 notification from" and insert "**14. (a) The prosecuting attorney may**
- 4 **bring an action for a violation of section 10 of this chapter against**
- 5 **an employer in the county where the unauthorized alien employee**
- 6 **is employed."**
- 7 Page 5, delete lines 39 through 42.
- 8 Page 6, line 7, delete "9" and insert "10".
- 9 Page 6, line 11, delete "14." and insert "15."
- 10 Page 6, line 11, delete "13" and insert "14".
- 11 Page 6, line 12, delete "shall" and insert "may".
- 12 Page 6, line 15, delete "15." and insert "16."
- 13 Page 6, line 15, delete "section 17" and insert "sections 18 and 19".
- 14 Page 6, line 16, delete "a person" and insert "an employer".
- 15 Page 6, line 17, delete "9" and insert "10".
- 16 Page 6, line 19, delete "shall" and insert "may".
- 17 Page 6, line 37, delete "16(a)" and insert "17(a)".
- 18 Page 6, line 39, delete "shall" and insert "may".
- 19 Page 7, line 11, delete "16." and insert "17."
- 20 Page 7, line 20, delete "15(a)(1)(C)" and insert "16(a)(1)(C)".
- 21 Page 7, line 22, delete "shall" and insert "may".
- 22 Page 7, line 24, delete "must" and insert "may".
- 23 Page 7, line 26, delete "15(a)(1)(C)" and insert "16(a)(1)(C)".
- 24 Page 7, line 28, delete "15(a)(1)(C)" and insert "16(a)(1)(C)".
- 25 Page 7, line 29, delete "shall" and insert "may".
- 26 Page 7, between lines 30 and 31, begin a new paragraph and insert:
- 27 **"Sec. 18. If:**
- 28 **(1) a court determines that an employer knowingly employed**
- 29 **an unauthorized alien in a second violation of section 10 of**
- 30 **this chapter; and**
- 31 **(2) the violation referred to in subdivision (1) occurred not**
- 32 **later than ten (10) years after the date of the initial violation;**
- 33 **the court may order the appropriate agencies to suspend, for not**
- 34 **more than ten (10) business days, all licenses described in section**
- 35 **17(a) of this chapter that are held by the employer."**
- 36 Page 7, line 31, delete "17." and insert "19."
- 37 Page 7, line 32, delete "a person" and insert "an employer".
- 38 Page 7, line 33, delete "second or subsequent" and insert "third".

- 1 Page 7, line 34, delete "9" and insert "**10**".
- 2 Page 7, line 35, delete "during" and insert "**not later than ten (10)**
- 3 **years after the date of the initial violation;**".
- 4 Page 7, delete lines 36 through 37.
- 5 Page 7, line 38, delete "shall" and insert "**may**".
- 6 Page 7, line 40, delete "16(a)" and insert "**17(a)**".
- 7 Page 7, line 41, delete "18." and insert "**20.**".
- 8 Page 7, line 42, delete "15(a)(2) or 16(b)" and insert "**16(a)(2),**
- 9 **17(b), or 18**".
- 10 Page 8, line 2, delete "16(a)" and insert "**17(a)**".
- 11 Page 8, line 4, delete "17" and insert "**19**".
- 12 Page 8, line 6, delete "16(a)" and insert "**17(a)**".
- 13 Page 8, line 8, delete "19." and insert "**21.**".
- 14 Page 8, line 9, delete "15, 16, and 17" and insert "**16, 17, 18, and**
- 15 **19**".
- 16 Page 8, line 10, delete "20." and insert "**22.**".
- 17 Page 8, line 22, delete "21. There is a rebuttable presumption that
- 18 an employer did" and insert "**23. A prosecuting attorney may not file**
- 19 **an action against an employer under section 13 of this chapter for**
- 20 **knowingly employing an unauthorized alien if the employer**
- 21 **verified the employment authorization of the employed individual**
- 22 **through the pilot program.**".
- 23 Page 8, delete lines 23 through 25.
- 24 Page 8, line 26, delete "22." and insert "**24.**".
- 25 Page 8, line 27, delete "9" and insert "**10**".
- 26 Page 8, line 30, delete "23." and insert "**25.**".
- 27 Page 8, line 31, delete "19" and insert "**21**".
- 28 Page 8, line 38, delete "24." and insert "**26.**".
- 29 Page 8, line 41, delete "25. After December 31, 2008," and insert
- 30 "**27. After September 30, 2009,**".
- 31 Page 9, line 2, delete "26." and insert "**28.**".
- 32 Page 9, line 3, delete "10" and insert "**11**".
- 33 Page 9, between lines 4 and 5, begin a new paragraph and insert:
- 34 "**Sec. 29. The suspension or revocation of a license under this**
- 35 **chapter does not relieve an employer from an obligation to**
- 36 **withhold, collect, or pay income tax on wages paid by the employer**
- 37 **to an employee.**".
- 38 Page 11, between lines 6 and 7, begin a new paragraph and insert:

"SECTION 7. IC 34-30-2-87.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 87.3. IC 22-5-1.5-22 (Concerning certain employers that employ unauthorized aliens).**".

Page 11, between lines 10 and 11, begin a new paragraph and insert:

"Sec. 1. This chapter does not apply to the following:

(1) A church or religious organization.

(2) The provision of assistance for health care items and services that are necessary for the treatment of an emergency medical condition of an individual.

(3) A health care provider (as defined in IC 16-18-2-163(a)) that is providing health care services.

(4) An attorney or other person that is providing legal services.

(5) A person who:

(A) is a spouse of an alien or who stands in relation of parent or child to an alien; and

(B) would otherwise commit an offense under this chapter with respect to the alien."

Page 11, line 11, delete "1." and insert **"2."**

Page 11, line 13, delete "2." and insert **"3."**

Page 11, line 17, delete "3." and insert **"4."**

Page 11, line 17, delete "5" and insert **"6"**.

Page 11, line 21, after "an alien" insert **", for the purpose of commercial advantage or private financial gain,"**.

Page 11, line 25, delete "4." and insert **"5."**

Page 11, line 25, delete "5" and insert **"6"**.

Page 11, line 31, after "transportation," insert **"for the purpose of commercial advantage or private financial gain,"**.

Page 11, line 35, delete "5." and insert **"6."**

Page 11, line 36, delete "3 or 4" and insert **"4 or 5"**.

Page 11, line 37, delete "3" and insert **"4"**.

Page 11, line 38, delete "4" and insert **"5"**.

Page 11, line 38, after "chapter;" insert **"or"**.

Page 11, line 39, delete "aliens; or" and insert **"aliens."**

Page 11, delete lines 40 through 41.

Page 12, line 2, delete "6." and insert **"7."**

Page 12, line 7, delete "IC 22-5-1.5-13," and insert **"IC**

- 1 **22-5-1.5-14,".**
 2 Page 12, line 8, delete "IC 22-5-1.5-9," and insert "**IC 22-5-1.5-10,".**
 3 Page 12, line 9, delete "December 31, 2008." and insert "**September**
 4 **30, 2009."**
 5 Page 12, line 10, delete "IC 35-44-5-3" and insert "**IC 35-44-5-4".**
 6 Page 12, line 11, delete "IC 35-44-5-4," and insert "**IC 35-44-5-5,".**
 7 Page 12, after line 12, begin a new paragraph and insert:
 8 "SECTION 11. [EFFECTIVE JULY 1, 2008] **(a) The attorney**
 9 **general may request funding to implement IC 22-5-1.5-11, as added**
 10 **by this act, in the next biennial budget submission.**
 11 **(b) This SECTION expires July 1, 2012."**
 12 Renumber all SECTIONS consecutively.
 (Reference is to SB 335 as introduced.)

and when so amended that said bill do pass.

Committee Vote: Yeas 10, Nays 1.

Kruse

Chairperson